

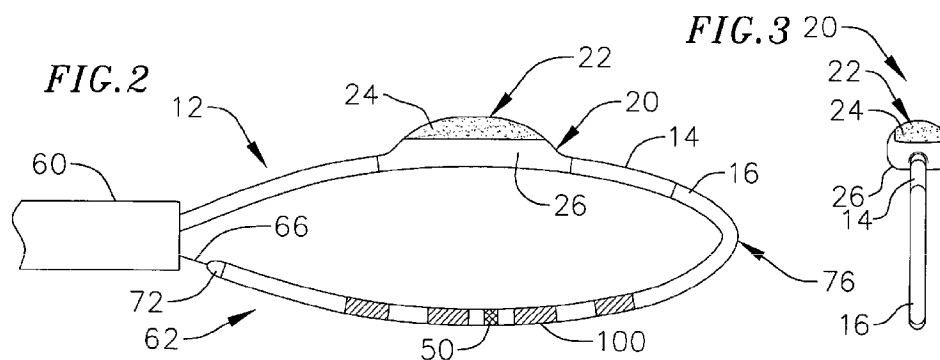
## REMARKS

### I. PRELIMINARY REMARKS

No claims have been amended, added or canceled. Claims 11-18, 21-30, 37-39 and 42-44 remain in the application. Claims 11-13, 18 and 42-44 have been withdrawn from consideration. Reexamination and reconsideration of the application are respectfully requested.

### II. BRIEF DESCRIPTION OF AN EXEMPLARY EMBODIMENT

The present inventions, as defined by the claims, are directed to probes that may be used for therapeutic purposes. Referring to Figures 2 and 3, one exemplary probe includes a catheter 12 that is carried within a sheath 60. The catheter 12, which may be bent into a loop 62 using a pull wire 66 (Figure 2) or by connecting the catheter to distal end of the sheath 60 (Figure 14), includes a hinge 74 (Figure 13). The hinge is located within the portion of the catheter 12 that forms the apex 76 of the loop 62. [Page 16, lines 12-16.] An inflatable electrode 20 is supported on the catheter 12. The exemplary inflatable electrode 20 is in the form of a half-balloon with a microporous region 22. [Page 10, lines 7-17.] A thermocouple 50 and electrodes 100 are supported on the catheter 12 distal of the inflatable electrode 20.



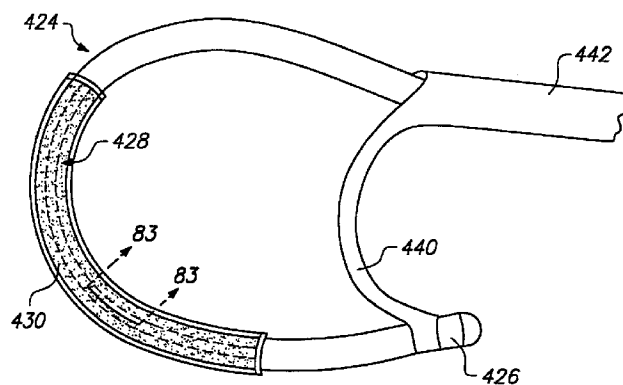
### III. PRIOR ART REJECTION

#### A. The Rejection

Claims 14-17, 21-30, 38 and 39 have been rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,076,012 to Swanson ("the Swanson '012 patent"). The rejection under 35 U.S.C. § 102 is respectfully traversed. Reconsideration thereof is respectfully requested.

#### B. The Swanson '012 Patent

The Swanson '012 patent discloses a variety of devices which include a catheter, an electrode structure that is secured to the distal end of a catheter, and a sheath through which the catheter and electrode structure are advanced. The distal end of the electrode structure is secured to the distal end of the sheath in some instances and, accordingly, a loop is formed when the catheter and electrode structure are urged distally. The device illustrated in Figure 82 includes an electrode structure 424 with a tubular electrode body 428 and a plurality of electrodes 429 (Figure 83), which are mounted on the electrode body under porous material 430. The proximal end of the electrode body 428 is secured to the distal end of a catheter, and the distal end 426 is secured to the end of a sheath 442 by way of a joint 440.



**FIG. 82**

### C. Discussion Concerning Claims 14-16 and 38

Independent claim 14 calls for a combination of elements comprising “an outer member” “an elongate body carried within the outer member interior bore and defining a distal region and a distal end operably connected to the distal end of the outer member, the distal region of **the elongate body including a hinge portion** located proximal of the distal end” and “an inflatable tissue coagulation body.” The combinations defined by claims 15, 16 and 38 include, *inter alia*, the elements recited in claim 14.

The Office Action has apparently taken the position that the sheath 442 illustrated in Figure 92 corresponds to the “outer member,” the catheter and electrode body 428 illustrated in Figure 92 correspond to the “elongate body,” and the porous material 430 illustrated in Figure 92 corresponds to the “inflatable tissue coagulation body.” The Office Action has also apparently taken the position that the flattened region 244 of the spline element 234 illustrated in Figure 33 corresponds to the “hinge portion.”

There are a variety of errors associated with the positions taken in the Office Action. Most notably, the spline element illustrated in Figure 33 is not part of the device illustrated in Figure 92. The Office Action has, in other words, mixed and matched elements from two different devices disclosed in the Swanson '012 patent, which is impermissible in an anticipation rejection under 35 U.S.C. § 102.<sup>1</sup>

The Office Action has also taken the position that something which extends along the entire length of a loop and actually defines the majority of the loop, i.e. the flattened portion 244 of spline element 234, is a “hinge portion.” [Note Figure 35 and the location of section line 35-35 in Figure 33.] Applicant respectfully submits that there is no reasonable interpretation of the term “hinge portion” that would read on a structure that extends along the entire length of a loop.

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<sup>1</sup> MPEP § 2131 indicates that “[t]he elements [of the prior art reference] must be arranged as required by the claim.” See also *In re Arkley, Eardley, and Long*, 172 USPQ 524, 526 (CCPA 1972) (“picking, choosing and combining various disclosures that are not directly related to one another by the teachings of the cited reference” has no place in the making of an anticipation rejection).

As the Swanson '012 patent fails to teach or suggest each and every element of the combination recited in independent claim 14, applicant respectfully submits that claims 14-16 and 38 are patentable thereover and that the rejection under 35 U.S.C. § 102 should be withdrawn.

#### **D. Discussion Concerning Claims 17 and 39**

Independent claim 17 calls for a combination of elements comprising “an outer member,” “an elongate body carried within the outer member,” and “a half-balloon tissue coagulation structure supported on the elongate body distal region.” The combination defined by claim 39 includes, *inter alia*, the elements recited in claim 17.

The Swanson '012 patent fails to teach or suggest the claimed combinations. For example, the Office Action has taken the position that the porous material 430 illustrated in Figure 84, which is pinched into porous segments by rings 446, is “deemed to be” the claimed “half-balloon tissue coagulation structure.” [Office Action at page 3.] Applicant respectfully submits that there is no reasonable interpretation of the phrase “half-balloon” that would read on one or more porous segments, each of which inflates and expands relative to the underlying catheter into a spherical shape. In order to clarify the issues in this application, applicant hereby requests that the next Office Action explain precisely how one of the porous segments illustrated in Figure 84 (or more than one if that is the case) could be a “half-balloon” in the eyes of a skilled artisan who had reviewed the present application.

As the Swanson '012 patent fails to teach or suggest each and every element of the combination recited in independent claim 17, applicant respectfully submits that claims 17 and 39 are patentable thereover and that the rejection under 35 U.S.C. § 102 should be withdrawn.

#### **E. Discussion Concerning Claims 21-30**

Independent claim 21 calls for a combination of elements comprising “a tissue coagulation body” and “an elongate body, defining a distal region that supports the

tissue coagulation body ... including a ***hinge portion defining the apex of the loop*** formed by distal region, the hinge portion having a flexibility that allows the apex of the loop to be inserted into a pulmonary vein to such an extent that the tissue coagulation body will be substantially aligned with the pulmonary vein ostium.” The combinations defined by claims 22-30 include, *inter alia*, the elements recited in claim 21.

There are a variety of errors associated with the rejection of claims 21-30 under Section 102. For example, the Office Action has impermissibly mixed and matched portions of the device illustrated in Figure 92 with portions of the device illustrated in Figure 33, and there is no reasonable interpretation of the term “hinge portion” that would read on something (i.e. spline element flattened portion 244) that extends along the entire length of a loop and actually defines the majority of the loop. [See Section III-C above.]

Moreover, in the specific context of claims 21-30, even if the Swanson spline element flattened portion 244 could be considered a “hinge portion,” the flattened portion does not define the apex of the associated loop. It defines the ***entire*** loop. The Swanson ‘012 patent also fails to indicate that the flexibility of the purported “hinge portion” is such that the apex of the associated loop could be “inserted into a pulmonary vein to such an extent that the [porous material 430] will be substantially aligned with the pulmonary vein ostium,” as is called for in claim 21.

As the Swanson ‘012 patent fails to teach or suggest each and every element of the combination recited in independent claim 21, applicant respectfully submits that claims 21-30 are patentable thereover and that the rejection under 35 U.S.C. § 102 should be withdrawn.

#### IV. CLOSING REMARKS

In view of the foregoing, it is respectfully submitted that the claims in the application are in condition for allowance. Reexamination and reconsideration of the application are respectfully requested. Allowance of the claims at an early date is courteously solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call applicant's undersigned representative at (310) 563-1458 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0638. Should such fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

Respectfully submitted,

8/22/2007  
Date

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